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# Legislating Secrecy

## IN THE NATION

By Tom Wicker

President Carter would have destroyed at the outset any possibility of conducting the "open" Administration he has promised, had he not said at his news conference that he wanted "to minimize the use of any criminal penalties for disclosure of information."

This was in answer to a question about a statement by Adm. Stansfield Turner, appointed by Mr. Carter to be director of the Central Intelligence Agency. Admiral Turner had told a group of reporters that he would be "amenable to a statute to impose a criminal penalty on leakers."

Before that, the Admiral had given the same response to the Senate Intelligence Committee, which strangely enough had invited him to propose such a statute. And even before that, Gerald Ford—as one of his primary responses to press revelations of C.I.A. abuses of power—had called for criminal penalties for those disclosing such abuses.

Such a law has long been an objective of the C.I.A., and was actively advocated by former director William Coiby. But Mr. Carter in his campaign deplored "excessive secrecy" and in a position paper on the C.I.A. declared: "We must never again keep secret the evolution of our foreign policy from the Congress and the American people."

In Manchester, N.H., on Feb. 11, 1976, he even asserted that if the C.I.A. "ever makes a mistake, I'll be the one, as President, to call a press conference, and I'll tell you and the American people, this is what happened." If Mr. Carter did that, he might find himself in violation of the very law Admiral Turner says he wants Congress to pass.

Actually, it may be a measure of the extent to which the Intelligence Committee already has been co-opted by the C.I.A. that it apparently would support such legislation—perhaps even develop it. If it did, no one would be more hampered than Congress in trying to get information out of the executive branch on which to base legislation; and no one would be more disadvantaged than the Intelligence Committee in trying to get the information it would need to carry out its supposed "oversight" of the C.I.A.

Does anyone suppose that the Pentagon routinely discloses cost overruns on weapons systems, much less waste and inefficiency? Does the C.I.A. or the F.B.I. come forward voluntarily to tell Congress about opening the mail of American citizens or carrying out surveillance of political dissidents? If the Interior Department is about to complete some sweetheart deal with an oil company, or a strip-mining company, does it notify the press? Did John Ehrlichman own up to the Ellsberg break-in?

All such stories, of course, come to Congress or the press from "leakers"—which is what you call them if you don't want the story to come out—or from public-spirited "whistle blowers"—which is what you call them if you think the public has a right and a need to know about chicanery, waste, inefficiency, abuses of power, mistakes of judgment and plain ineptitude, all of which Admiral Turner's proposed law would make it much easier to conceal. As Watergate showed so

graphically, almost anything can be hidden behind the romantic and the deceptive cloak of "national security."

Thus, Mr. Carter is not only adhering to his campaign position, he is making the wise choice in refusing to support a law that would penalize, not those who abuse their power, but those who seek to make that abuse known so that it can be stopped. The net consequence of such legislation would be to stop "whistle blowers" from coming forward, therefore to make it easier for Government graft, waste, abuse and spying to be concealed and continued.

No one should doubt that that would be the consequence, and that the so-called "national security" would not be enhanced in the slightest. What major "leak" to the press ever has resulted in real, demonstrable damage to "national security"? The Pentagon Papers? Even the Government itself can't show how the nation was harmed by their publication. The recent Hussein leak? Within a few days, King Hussein and Yasir Arafat were photographed beaming at each other as if Mr. Arafat had known the truth all along—which he probably did.

Mr. Carter prefers to limit the number of people to whom real national security secrets are known. He should go further and limit the number of people, of whom there are literally thousands in Government, who can classify documents; many of these are in departments whose work has little or nothing to do with national security. As Justice Potter Stewart has wisely observed, "When everything is classified, then nothing is classified."

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